

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

InterFocus Inc., a California Corporation,)	
)	
)	
Plaintiff,)	Case No. 1:22-cv-02259
)	
v.)	Hon. Steven C. Seeger
)	
Hangzhou Hibabi Technology Co., Ltd.,)	
and Hibobi Technology Ltd.,)	
)	
Defendants.)	
)	

JOINT INITIAL STATUS REPORT UNDER RULE 26(f)

The parties have conferred as required by Rule 26(f), and jointly submit the following discovery plan. *See* Fed. R. Civ. P. 26(f)(2); Fed. R. Civ. P. 26(f)(3); Fed. R. Civ. P. 16(b). The parties understand that the Court will enter a scheduling order under Rule 16(b)(1), and that the Court will modify any such schedule “only for good cause.” *See* Fed. R. Civ. P. 16(b)(4).

I. Nature of the Case

A. Attorneys for parties:

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B. **Basis for Federal Jurisdiction.** The basis for federal jurisdiction is the Copyright Act, 17 U.S.C. § 501 et seq., the Lanham Act, 15 U.S.C. § 1125(a) , and 28 U.S.C. § 1331 (federal question jurisdiction).

C. **Short Overview of Case.**

Plaintiff's Contention:

Plaintiff InterFocus operates an online store that markets high quality adult and children's clothing on the website [Https://us.patpat.com/](https://us.patpat.com/). Plaintiff has taken professional photos of its products, registered many of them with the U.S. Copyright Office, and uses those photos to sell its products. Defendants are Chinese companies formed by former

employees of one of Plaintiff's vendors. Defendants operate a competing website that sells competitive products using copies of images from Plaintiff's website. Plaintiffs contend that Defendants' have engaged in a pattern of copyright infringement and violations of Lanham Act §43(a).

Defendants' Contention:

Defendants reserve the right to assert affirmative defenses and counterclaims.

D. Describe the claims asserted in the complaint and the counterclaims and/or third-party claims and/or affirmative defenses.

Plaintiff's Contentions:

Plaintiff contends that Defendants have engaged in a pattern of copying images from Plaintiff's website to market Defendants' knock-offs of Plaintiff's products. Plaintiff contends that Defendants' use of Plaintiff's copyrighted images violates Plaintiff's rights under the copyright laws, and also violates Plaintiff's rights under Lanham Act §43(a), 15 U.S.C. § 1125(a) by creating a likelihood of confusion as to the source, sponsorship, or affiliation of Defendants with Plaintiff.

Defendants' Contention:

Defendants reserve the right to assert affirmative defenses and counterclaims.

E. What are the principal factual issues?

Plaintiff's Contentions:

1. Whether Defendants have copied images from Plaintiff's website to market Defendants' products.

2. Whether Defendants' use of images copied from Plaintiff's website on Defendants' website to market products that are virtually identical in appearance (but not in quality) has caused a likelihood of confusion.

Defendants' Contention:

Defendants reserve the right to supplement the principal factual issues related to Defendants potential affirmative defenses and counterclaim.

F. What are the principal legal issues?

Plaintiff's Contentions:

1. Whether Defendants have infringed Plaintiff's rights under the Copyright Act.
2. Whether Defendants have violated Lanham Act § 43(a) by creating a likelihood of confusion.
3. Whether Plaintiff is entitled to an injunction preventing Defendants from copying any images from Plaintiff's website, whether registered with the Copyright Office or not, and using such copied images on Defendants' website.

Defendants' Contention:

Defendants reserve the right to supplement the principal legal issues related to Defendants potential affirmative defenses and counterclaim.

G. What relief is the plaintiff(s) seeking? Quantify the damages, if any. (A ballpark estimate is acceptable – the purpose is simply to give the Court a feel for the case. This estimate will not be admissible.).

Plaintiff seeks statutory damages under 17 U.S.C § 504(c) of \$30,000 for the willful copyright infringement of each of 35 copyrighted works, which were registered with the Copyright Office prior to Defendants' willful acts of infringement, for a total of \$1,050,000. In the alternative,

Plaintiff seeks its actual damages and any profits of Defendants that are attributable to the infringement. Further, Plaintiff seeks damages under 15 U.S.C. § 1117 in the form of Defendant's profits and Plaintiff's damages and treble damages. Plaintiff also seeks its costs and attorneys' fees.

Defendants' Contention:

Defendants reserve the right to seek monetary damages, injunctive relief, attorneys' fees, and other relief that the Court deems just and proper based on Defendants' potential affirmative defenses and counterclaim.

- H. **Have all of the defendants been served, or waived service of process? If not, identify the defendants that have not received service.**

Plaintiff's position: All defendants were served pursuant to this Court's Order.

Dkt. 22 at ¶ 5.

II. Discovery

A. Proposed Discovery Schedule

Event	Plaintiff's Proposed Deadline	Defendant's Proposed Deadline
Amendment to the pleadings	December 15, 2022	June 2, 2023
Service of process on any "John Does"	N/A	N/A
Completion of Fact Discovery	March 31, 2023	December 15, 2023
Disclosure of Plaintiff's Expert Report(s)	One month after the close of fact discovery (insert a date certain) May 1, 2023	January 15, 2024
Deposition of Plaintiff's Expert	May 22, 2023	February 15, 2024
Disclosure of Defendant's Expert Report(s)	June 5, 2023	March 15, 2024
Deposition of Defendant's Expert	June 19, 2023	April 15, 2024

Event	Plaintiff's Proposed Deadline	Defendant's Proposed Deadline
Dispositive Motions	One month after the close of expert discovery (insert a date certain) July 24, 2023	May 15, 2024

B. How many depositions do the parties expect to take?

Plaintiffs Position: Plaintiff contemplates taking no more than 10 depositions of fact witnesses, including party and non-party witnesses.

Defendants' Position: Defendants contemplate taking no more than 10 depositions of fact witnesses, including party and non-party witnesses.

C. Do the parties foresee any special issues during discovery?

D. Discovery Plan.

The parties are engaging in discussions regarding a plan for discovery. Generally, discovery shall proceed on the schedule set forth in part II.A. The parties may submit a proposed order governing electronic discovery later in the case in the event that the parties cannot agree on issues relating to electronic discovery. The parties agree that privileged communications occurring after the date the lawsuit was filed do not need to be logged.

III. Trial

A. Have any of the parties demanded a jury trial?

No parties have yet demanded a jury trial.

B. Estimate the length of trial.

Plaintiff believes that the trial should take 2-4 days, including jury selection, if any.

Defendants believe that the trial should take 4-5 days, including jury selection, if any.

IV. Settlement, Referrals, and Consent

A. Settlement Discussions.

No discussions have yet taken place.

B. Do the parties request a settlement conference at this time before this Court or the Magistrate Judge?

Plaintiff does not request a settlement conference at this time, as there have not yet been any settlement discussions between the parties.

C. Do Parties Consent to Jurisdiction of the Magistrate Judge?

At this time, the parties do not consent to jurisdiction of a magistrate judge.

V. Other

A. Is there anything else that the plaintiff(s) wants the Court to know? (Please be brief.)

The parties request a prompt hearing and ruling on its motion for a preliminary injunction.

B. Is there anything else that the defendant(s) wants the Court to know? (Please be brief.)

Date: November 3, 2022

Respectfully submitted,

RIMON, P.C.

/s/ Eric C. Cohen

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Date: November 3, 2022

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Certificate of Service

I hereby certify that on November 3, 2022, this document was filed with the Clerk of the Court using CM/ECF, which will send notification of the filing to all attorneys of record in this case.

/s/ Eric C. Cohen
Eric C. Cohen